

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 444
HOUSE BILL 1213

AN ACT TO CONFORM THE NORTH CAROLINA INCOME TAX TREATMENT
OF ALIMONY PAYMENTS AND PROPERTY TRANSFERS MADE INCIDENT
TO DIVORCE TO THE TAX TREATMENT AFFORDED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141.2 is rewritten to read as follows:

"Gross income includes amounts received by a wife from her husband or by a husband from his wife as payments under a decree of divorce or separate maintenance, under a written separation agreement, or under a decree requiring support and maintenance to the extent includable in gross income for federal income tax purposes under the provisions of Section 71 of the Internal Revenue Code of 1954, as amended. Provided, however, any amounts determined to be 'excess amounts' under the provisions of Section 71 of the Internal Revenue Code of 1954, as amended, shall be included in the gross income of the payor spouse, in the payor spouse's taxable year beginning in the 'computation year' as defined in Section 71 of the Internal Revenue Code of 1954, as amended."

Sec. 2. G.S. 105-147(21) is amended by designating the current 105-147(21) as subsection (a) and adding a new subsection (b) as follows:

"(b) In case of a spouse to whom payments have been made by a divorced or estranged spouse, and as a result of a change in such payments the payor spouse is required to include an 'excess amount' under Section 105-141.2, the payee spouse shall be entitled to a deduction equal to the total of such 'excess amount' in the payee spouse's taxable year beginning in the 'computation year' as defined in Section 71 of the Internal Revenue Code of 1954, as amended."

Sec. 3. G.S. 105-145 is amended by redesignating subsection (e) as subsection (f) and inserting a new subsection (e) to read as follows:

"(e) A gain or loss on a transfer of property incident to divorce from an individual to (or in trust for the benefit of) a spouse or former spouse shall be recognized only to the extent recognized under the Internal Revenue Code of 1954, as amended, for federal income tax purposes; however, if there is a difference in basis of such transferred property under State law and the Internal Revenue Code of 1954, as amended, the basis used in determining such gain or loss recognized shall be the basis as determined under the provisions of this Division."

Sec. 4. G.S. 105-144(a)(3) is amended by adding a new subsection (d) after subsection (c) as follows:

"(d) The basis of the transferee in property acquired incident to divorce with respect to which no gain or loss is recognized under the provisions of G.S. 105-145(e) shall be the adjusted basis of the transferor."

Sec. 5. Sections 1 and 2 of this act shall be effective upon ratification, and shall apply to orders entered and agreements executed after December 31, 1984. Sections 3 and 4 of this act shall be effective upon ratification, and shall apply to transfers made after July 18, 1984, except that it shall not apply to transfers made after July 18, 1984 pursuant to instruments in effect before that date unless both parties elect to have the provision apply. This act shall apply also to transfers after December 31, 1983, and on or before July 18, 1984, if both parties so elect.

In the General Assembly read three times and ratified, this the 21st day of June, 1985.